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LEE v. LEE.

Nov. 16, 1911.

[72 S. E. 689.]

Divorce (§ 37*)—Grounds—Desertion—Acts Constituting.—A wife who without cause abandoned her husband continuously for more than three years, and who during that time did not live with him and declared her purpose never to return to his home, though he had tried to induce her to do so, deserted her husband for three years, within Code 1904, § 2257, authorizing the husband to procure a divorce on that ground.

[Ed. Note.—For other cases, see Divorce, Cent. Dig. §§ 107-132; Dec. Dig. § 37.*]

Appeal from Circuit Court, Rockingham County.

Suit by Thomas H. Lee against Eveline Lee for divorce. From a decree denying relief, plaintiff appeals. Reversed and remanded.

Geo. G. Grattan, for the appellant.

E. D. Ott, for the appellee.

PER CURIAM. This bill was filed by Thomas H. Lee to obtain a divorce from his wife, Eveline Lee, on the ground of desertion.

The statute (Code 1904, § 2257) provides that a divorce from the bond of matrimony may be decreed where either party willfully deserts or abandons the other for three years.

The uncontradicted evidence shows that without cause the defendant has abandoned her husband continuously for more than three years, that during that time she has not lived with him, and has declared her purpose never to return to his home, though he has tried to induce her to do so. These facts constitute such proof of desertion as entitles the appellant to a decree of divorce from the bond of matrimony. *Washington v. Washington*, 111 Va. 524, 69 S. E. 322.

The circuit court having denied the divorce, its decree must be reversed, and the cause remanded for a decree to be entered in conformity with this opinion.

Reversed.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes